

## Broadcasting Board of Governors

## § 512.19

the Fair Debt Collection Practices Act, 15 U.S.C. 1692;

(3) The contractor is required to strictly account for all amounts collected;

(4) The contractor must agree that uncollectible accounts shall be returned with appropriate documentation to enable Broadcasting Board of Governors to determine whether to pursue collection through litigation or to terminate collection;

(5) The contractor must agree to provide any data in its files relating to paragraphs (a)(1), (2), and (3) of § 105.2 of the Federal Claims Collection Standards (4 CFR part 105) upon returning the account to Broadcasting Board of Governors for subsequent referral to the Department of Justice for litigation.

(c) Broadcasting Board of Governors will not use a collection agency to collect a debt owed by a currently employed or retired Federal employee, if collection by salary or annuity offset is available.

### Subpart C—Salary Offset

#### § 512.17 Purpose.

This subpart provides the standards to be followed by Broadcasting Board of Governors in implementing 5 U.S.C. 5514 to recover a debt from the pay of an Board employee or former employee, and establishes the procedural guidelines to recover debts when the employee's creditor and paying agencies are not the same.

[52 FR 43897, Nov. 17, 1987, as amended at 55 FR 3050, Jan. 30, 1990]

#### § 512.18 Scope.

(a) *Coverage.* This subpart applies to Executive agencies, military departments, an agency or court in the judicial branch, an agency of the legislative branch and other independent entities of the Federal Government as defined in 5 CFR 550.1103, under the heading "Agency".

(b) *Applicability.* This subpart and 5 U.S.C. 5514 apply in recovering debts by offset without the employee's consent from the current pay of that employee. Debt collection procedures which are not specified in 5 U.S.C. 5514 and these

regulations will be consistent with the Federal Claims Collection Standards (4 CFR parts 101-105).

(1) The procedures contained in this subpart do not apply to debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 et seq.), the Social Security Act (42 U.S.C. 301 et seq.), or the tariff laws of the United States or to any case where collection of a debt is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705).

(2) This subpart does not preclude an employee from requesting a waiver of a salary overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office in accordance with procedures prescribed by the General Accounting Officer, nor does it preclude an employee from requesting waiver when waiver is available under any statutory provision.

[52 FR 43897, Nov. 17, 1987, as amended at 55 FR 3051, Jan. 30, 1990]

#### § 512.19 Definitions.

For purposes of this subpart:

*Board* means the Broadcasting Board of Governors.

*Creditor Agency* means the agency to which the debt is owed.

*Debt* means an amount owed to the United States.

*Disposable Pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay or authorized pay remaining after the deduction of any amount required to be withheld by law. The Board will exclude deductions described in 5 CFR 581.105 (b) through (f) to determine disposable pay subject to salary offset.

*Employee* means a current employee of Broadcasting Board of Governors or of another Executive Agency.

*Executive Agency* means:

(a) An Executive Agency as defined in section 105 of title 5, United States Code, including the U.S. Postal Service and the U.S. Postal Rate Commission;

(b) A military department as defined in section 102 of title 5, United States Code;

(c) An agency or court in the judicial branch, including a court as defined in

section 610 of title 28, United States Code, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;

(d) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(e) Other independent establishments that are entities of the Federal Government.

*FCCS* means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR parts 101-105.

*Paying agency* means the agency employing the individual and authorizing the payment of his or her current pay.

*Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deductions at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

*Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 710, 5 U.S.C. 8346(b), or any other law.

[52 FR 43897, Nov. 17, 1987, as amended at 55 FR 3051, Jan. 30, 1990]

**§512.20 Notification.**

(a) Salary offset deductions shall not be made unless the Director, Financial Operations Division of Broadcasting Board of Governors, or such other official as may be named in the future by the Director of Broadcasting Board of Governors, provides to the employee a written notice, 30 calendar days prior to any deduction, stating at a minimum:

(1) The Board's determination that a debt is owed including the nature, origin, and amount of the debt;

(2) The Board's intent to collect the debt by means of deduction from the employee's current disposable pay account;

(3) The amount, frequency and proposed beginning date and duration of the intended deductions;

(4) An explanation of the Board's policy concerning interest, penalties, and administrative costs;

(5) The employee's right to inspect and copy Government records pertaining to the debt;

(6) The opportunity to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment in lieu of offset per the requirements of 4 CFR 102.2(e).

(7) The employee's right to a hearing arranged by the Board and conducted by an administrative law judge or, alternatively, an official not under the control of the head of the Board;

(8) The method and time period for filing a petition for a hearing;

(9) That timely filing of the petition will stay the commencement of collection proceedings;

(10) That final decision on the hearing will be issued not later than 60 days after the filing of the petition for hearing unless the employee requests and the hearing officer grants a delay in the proceedings.

(11) That knowingly false, misleading, or frivolous statements, representations or evidence may subject the employee to:

(i) Disciplinary procedures under chapter 75 of title 5, United States Code or any other applicable statutes;

(ii) Penalties under the False Claims Act, sections 3729-3731 of title 31 U.S.C. or any other applicable statutes.

(iii) Criminal penalties under sections 286, 287, 1001, 1002 of title 18 United States Code or any other applicable statutes.

(12) Any other rights or remedies available to the employee, including representation by counsel or his respective bargaining unit, under the statutes or regulations governing the program for which collection is being made.

(13) That amounts paid on or deducted for the debts that are later waived or found not owed to the United States will be promptly refunded to the employee.

(b) Notifications under this section shall be hand delivered with a record made of the delivery, or shall be mailed certified mail with return receipt requested.

(c) No notification hearing, written responses or final decisions under this regulation are required of Broadcasting